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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,471	11/29/2004	Rabih Moughelbay	37388-404200	5737
27717	7590	02/15/2006	EXAMINER	
SEYFARTH SHAW LLP			MENEZES, MARCUS	
55 E. MONROE STREET				
SUITE 4200			ART UNIT	PAPER NUMBER
CHICAGO, IL 60603-5803			3677	

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/516,471	MOUGHELBAY ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Marcus Menezes	3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 29 November 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 50-108 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 50-69, 71, 73-79, 81, 83, 84, 86, 88-90, 92-94, 96-98, 100-102 and 104-108 is/are rejected.

7)  Claim(s) 70, 72, 80, 82, 85, 87, 91, 95, 99 and 103 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 29 November 2004 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-59 been renumbered 50-108.

2. Claims 67,72,77,82,87,91,95,99,103 and 108 are objected to under 37 CFR 1.75(c) as being in improper form because a claim cannot be dependent on multiple claims. See MPEP § 608.01(n). Accordingly, the claim 67,72,77,82,87,91,95,99,103 and 108 have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

3. Claims 67, 73-77 and 108 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are dependent on non-existent claims. Appropriate action is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 50-66,68,69,71,78,79,81,83,84,86,88-90,92-94,96-98,100-102 and 104-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota et al. (US Patent Pub. No. 2001/0004055) in view of Freed (US Patent No. 5,377,387).

Kubota et al. discloses a system capable of differentiating and identifying between two or more cables of two or more respective appliances, the system comprising a respective tying device (1) capable for tying and attaching to a respective cable. (See Fig. 14). Kubota et al. further discloses of a plurality of the tying devices that are supplied as part of a unit and are detachable from the unit for use, wherein the unit is a card (10A). (See Fig. 3 and col. 3, p. 52). The system comprises of an elongate member (2) capable for releaseable securement at a cable by wrapping around the cable; and a planar enlarged portion (30,31,32) arranged on the member for insertion through a hole (41) located in the member, the enlarged portion being at least in part of a thickness greater than a corresponding narrowest width dimension of the hole, and at least in part of a traverse width greater than a corresponding width dimension of the hole. (See Fig. 12). Note the enlarged portion is planar on its upper exterior surface (top of 30 – Fig. 12) as is the case with the upper exterior surface (30) of the application. The Kubota et al. system additionally places the enlarged portion at one end of the elongate member and the hole (41) is located adjacent to an opposite end of the elongate member. Also, the enlarged portion defines a shoulder (30a) where it joins the elongate member (2) such that, in use, when the enlarged portion has been inserted through the hole, the shoulder is seated at and abuts an edge of the hole to releaseably secure the device at the cable. (See Fig. 13) Also, such shoulder (30a) is

at least partially rounded and beveled. Also, the width of the hole (41) is equivalent to or greater than the width of the elongate member (2) and the enlarged portion has a remote end (tip of 32) that is tapered to facilitate insertion thereof into the hole.

Additionally, the enlarged portion of the device at least is made of a flexible material and the elongate member (2) is a strap. (See col. 3, p. 51). Kubota et al. further discloses that the tying device (1) comprises of an enlarged portion (30,31,32) connected to the elongate member (2) and being insertable through a hole (41) located in the member wherein the member has a width less than the enlarged portion to define a shoulder at the enlarged portion such that the device widens moving from the member to the enlarged portion at the connection therebetween. (See Fig. 3). Also, the system comprises of a planar enlarged portion arranged on the member for insertion through a hole located in the member, the enlarged portion included a raised portion (32) thereon to provide that part of the enlarged portion with a thickness greater than a remainder of the enlarged portion; the device being configured such that the enlarged portion can be passed from one side of the member, completely through the hole, to an opposite side of the member to be secured at the opposite side. (See Fig. 13). Additionally, as shown in Fig. 3, the enlarged portion has a transverse width greater than the transverse width of the elongate member. Furthermore, Kubota et al. discloses a card (10A) comprising a plurality of detachable elongate members (2), each of the members being frangibly joined to the card for detachment therefrom, an enlarged portion (30,31,32) being defined in at least one of the members for insertion in use through a hole (41) located in the member. (See Fig. 3 and col. 3, p. 52). Also, the enlarged portion of the card has a

transverse width greater than the width of an adjacent portion of the elongate member and the members are each made of the same material as the card. (See Fig. 3 and col. 3, p. 51). Finally, Kubota et al. discloses a system capable for differentiating two or more containers for containing two or more respective items, the system comprising a respective tying device (1) capable for labeling each respective container. (See Fig. 14). Also, each tying device is capable of identifying its respective container, such as a plastic bag, and is capable of attaching to a neck of a container, or a container neck formed by folding of the container. (See Fig. 14).

Freed teaches of a tying device (10) where each device is provided in a differentiated form from each other tying device via positioned indicia, such as an appliance name, thereon, such as on an external surface (14) of an enlarged portion of the tying device. (See arrow on Fig. 1). Such indicia is pre-applied to an external surface (14) of the portion which in use is capable of facilitating with the identification of a cable or container by a human to which the tying device (1) is releasably secured.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the teachings of the placement of indicia on the tying device, preferably on an external surface of the enlarged portion in the Kubota et al. patent in view of Freed in order to facilitate the user with adjustment of the tying device, such as indicia that instructs the user in which direction to pull the tying device for adjustment. (See Fig. 1, 5A, 7A, 9A, 11A)

***Allowable Subject Matter***

6. Claim 70, 80 and 85 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5586353

US Patent No. 5967316

US Patent No. 6044525

US Patent No. 4991265

US Patent No. 3169004

GB Patent No. 1527263

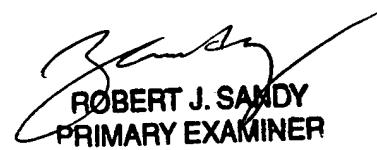
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marcus Menezes  
Examiner  
Art Unit 3677

MM



ROBERT J. SANDY  
PRIMARY EXAMINER